

Senate Bill No. 271

Passed the Senate August 30, 2005

Secretary of the Senate

Passed the Assembly August 25, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 11521.2, 11522, and 11523 of the Insurance Code, relating to annuities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 271, Scott. Charitable gift annuities.

Existing law generally regulates grants and annuities societies, which may receive transfers of property conditioned upon an agreement to pay an annuity to the transferor. Existing law limits the investments that the reserve for each annuity contract may be invested in, as specified.

This bill would state the intent of the Legislature that the reserve required to be maintained by a grants and annuities society be invested in a manner generally consistent with the provisions of law governing the investment of trust assets.

The bill would allow the reserves for these annuities contracts to be invested in investment companies registered under the federal Investment Company Act of 1940.

Existing law requires every grants and annuities society holding a certificate of authority to file with the Insurance Commissioner a copy of each agreement entered into between the permit or certificate holder and the transferor.

This bill would require such a grants and annuities society to file information regarding each agreement in the manner and at the times prescribed by the commissioner.

Existing law requires each annuity agreement covered by these provisions to show specified information, including the reasonably commensurate value of the benefits created.

This bill would eliminate the requirement that such an agreement show the reasonably commensurate value of the benefits created, and would add requirements that the agreement show the signature of each donor and a specified statement regarding the unprotected nature of the annuity. The bill would require each grants and annuities society holding a certificate of authority to certify annually to the commissioner that all agreements entered into during the time period covered by the

certification show all of the information required pursuant to these provisions.

This bill would declare that it is to take effect immediately as an urgency statute, but that certain changes to existing law would become operative on January 1, 2006.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that the reserve required to be maintained by Section 11521 of the Insurance Code be invested in a manner generally consistent with the Uniform Prudent Investor Act (Article 2.5 (commencing with Section 16045) of Chapter 1 of Part 4 of Division 1 of Title 1 of the Probate Code), subject to the specific restrictions contained in Section 11521.2 of the Insurance Code.

SEC. 2. Section 11521.2 of the Insurance Code is amended to read:

11521.2. (a) The reserve required by the table of commensurate values for each annuity contract issued must be invested in investments specified in Sections 1170 through 1182 except that a certificate holder may invest in investment companies registered under the federal Investment Company Act of 1940, and in securities, including interests in those investment companies, listed and traded on the New York Stock Exchange, the American Stock Exchange or regional stock exchanges or the National Market System of the Nasdaq Stock Market or successors to such exchanges or market having the same qualifications, to the extent of the lesser of net worth (assets over liabilities and reserves) of the certificate holder or 50 percent of these general investments. This section does not permit investment in options or commodity exchanges.

(b) The certificate holder may invest in other investments as permitted by and subject to the written consent of the commissioner.

SEC. 3. Section 11522 of the Insurance Code is amended to read:

11522. Every organization or person holding a certificate of authority to receive transfers under this chapter shall make and file with the commissioner information regarding each agreement entered into between the permit or certificate holder and the

transferor. The information requested by the commissioner shall be provided in the number, form, and format, at the intervals, and by the methods prescribed by the commissioner. The organization or person shall pay a basic fee to the commissioner for the filing of the requested information. The basic fee as provided in this section shall be established by rules and regulations adopted by the commissioner pursuant to Section 11521.5 for information filed by the organization or person where information is filed regarding up to 10 agreements within any calendar quarter. Thereafter, within each calendar quarter, the fee for information filed regarding each agreement shall be as follows: 50 percent of the basic fee for information filed regarding 11 to 20 agreements filed; 20 percent of the basic fee for information filed regarding 21 to 30 agreements filed; 10 percent of the basic fee for information filed regarding 31 to 40 agreements filed; and 5 percent of the basic filing fee for information filed regarding 41 or more agreements.

The fees as provided herein shall be paid with the filing of the information regarding the agreements by the organization or person.

SEC. 4. Section 11523 of the Insurance Code is amended to read:

11523. (a) The annuity agreement shall show each of the following:

- (1) The value of the property transferred.
- (2) The amount of annuity agreed to be paid to the transferor or his nominee.
- (3) The manner in which, and the intervals at which, the annuity is to be paid.
- (4) The age, in years, at or nearest the date of the agreement, of the person during whose life the annuity is to be paid.
- (5) The effective date of the agreement.
- (6) The signature of each donor.
- (7) The following clause, in at least 12-point boldface type, located on the same page as and in the immediate proximity of the donor signature line: "Annuities are subject to regulation by the State of California. Payments under this agreement, however, are not protected or otherwise guaranteed by any government agency or the California Life and Health Insurance Guarantee Association.

(b) Every organization or person holding a certificate of authority to receive transfers under this chapter shall annually certify to the commissioner that all agreements entered into during the time period covered by the certification show all of the information set forth in subdivision (a). The certification shall be in the number, form, and format, by the method, and at the time prescribed by the commissioner. The commissioner may from time to time as he or she deems necessary require that a copy of each agreement be submitted to the department.

SEC. 5. The changes made to Sections 11522 and 11523 of the Insurance Code by Sections 3 and 4 of this act shall become operative on January 1, 2006.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow grants and annuities societies to invest their reserves responsibly and competitively, it is necessary that this act take effect immediately.

Approved _____, 2005

Governor